

According to the Department's regulation at 86 Ill. Adm. Code 130.310, a medical appliance is an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. (This is a GIL.)

July 26, 2007

Dear Xxxxx:

This letter is in response to your letter dated February 28, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Our firm has several dental clients in the state of Illinois. Would you please mail me the Medical Appliance Listing and any other pertinent information regarding taxability of the dental profession in the state of Illinois including, but not limited to, use tax.

If you have any questions, please let me know.

DEPARTMENT'S RESPONSE

The Department no longer issues a medical appliance listing. Please refer to the Department's regulation at 86 Ill. Adm. Code 130.310, "Food, Drugs, Medicines and Medical Appliances." This regulation describes how sales of products that qualify as drugs, medicines and medical appliances can be subject to the low 1% rate under the Retailers' Occupation Tax Act. Local sales taxes may also apply, depending upon where retail sales are made. Those that do not qualify for the low rate are taxed at the State rate of 6.25%, plus applicable local taxes.

According to Section 130.310, a medical appliance is an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. Such items may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals.

For example, dental prostheses are items that are used as a direct substitute for a malfunctioning part of the body. These include posts and cores used to replace missing tooth structure, pins used to stabilize restorative devices such as crowns, sealants used to fill pits and fissures, gutta percha points used as root canal filling material, bases put on a tooth before restoration can be completed, and cements used to adhere restoration material (amalgam composite material, crowns, bridges) to the tooth structure. Cements used to seat temporary restorations qualify for the reduced rate.

Consumable supply items are generally taxed at the high rate as these items do not directly substitute for a malfunctioning part of the body. For example, supply items that would be fully taxable include needles, instruments, tools, X-ray film, bibs, trays, containers, non-sterile dressings, bandages and other items that do not directly substitute for a malfunctioning part of the body.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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